S.B.Civil Writ Petition No.5021/2004
Gurdev Goyal
vs
Om Prakash & Anr.

DATE OF ORDER : - 13.12.2004

HON'BLE MR. PRAKASH TATIA,J.

Mr. Dron Kaushik, for the appellant.

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Heard learned counsel for the petitioner.

The only point raised by the petitioner in this writ petition is that according to petitioner though the original tenancy between the petitioner and the respondent no.1 started from 1st August, 1988 and at that time rent was Rs.850/- per month, but as per the rent deed Ex.2 itself the tenancy was only upto 30th June, 1989. The respondent-landlord served a notice upon the petitioner terminating the tenancy on 30th Oct., 1998, copy of which is placed on record as Annex.4. Thereafter, according to petitioner new tenancy was created by oral agreement between the petitioner and the respondent no.1-landlord in the year 1998. Therefore, according to petitioner the petitioner's tenancy can be considered for the premises only from the year 1998, but the two courts below have committed illegality in treating the petitioner tenant in the premises from 1st August, 1988 and consequently committed error of law in calculating and determining the rent of the

premises under Section 6.

I considered the submissions of learned counsel for the petitioner. It appears that though there is mention in the rent deed Annex.2 that tenancy will be upto 30th June, 1989, but admittedly, this condition was never enforced by the landlord nor petitioner surrendered the tenancy on or after 30th June, 1989. So far as oral agreement of tenancy after the landlord's notice is concerned, was not accepted by the two courts below. This is a pure question of fact in the facts of this case. Therefore, this question of fact cannot be gone into under Article 227 of the Constitution of India by appreciation and re-appreciation of the evidence.

In view of the above, I do not find any merit in the writ petition. Hence,the writ petition of the petitioner is dismissed as no other point was pressed.

(Prakash Tatia), J.

c.p.goyal/-